

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

CENTRAL STATES, SOUTHEAST AND)
SOUTHWEST AREAS HEALTH AND)
WELFARE FUND, an Employee Welfare)
Benefit Plan, by Howard McDougall, a)
Trustee thereof,)
Plaintiff,)
-vs-) Case No. 08 cv 4120
BARBARA COOK and DONALD COOK,) Honorable Judge Norgle
Defendants.) Magistrate Judge Denlow

MOTION FOR JUDGMENT BY DEFAULT AND TO DISTRIBUTE FUNDS

The Defendant, Donald Cook, by and through his attorneys, S. Jerome Levy & Associates, P.C., does hereby request that this Honorable Court enter a judgment of default against the co-Defendant, Barbara Cook, and distributing to the Defendant, Donald Cook, the funds totaling \$40,000.00 for the life insurance plan naming the Defendant, Donald Cook, as beneficiary. In support thereof, the Defendant states:

1. The Defendant, Donald Cook, is the designated beneficiary for life insurance benefits pursuant to a beneficiary card maintained by the Central States, Southeast and Southwest Areas Health and Welfare Fund.
2. Summons was issued to the Defendant, Barbara Cook, on July 22, 2008. (Docket No.5).
3. The co-Defendant, Barbara Cook, was served with the Summons and Complaint for Interpleader on July 23, 2008 by the Sheriff of Eau Claire County, Wisconsin. (Docket No. 6).
4. The Defendant, Barbara Cook, has failed to appear in this case within 20 days after

service of the summons.

5. Attached is the Affidavit of S. Jerome Levy addressing the failure of the co-Defendant, Barbara Cook, to appear.

6. The Defendant, Donald Cook, respectfully requests that an order be entered holding the Defendant, Barbara Cook, in default and distributing the funds deposited by Central States, Southeast and Southwest Areas Health and Welfare Fund to the Defendant, Donald Cook, as the named beneficiary.

WHEREFORE, the Defendant, Donald Cook, respectfully requests that this Honorable Court enter a judgment of default against the Defendant, Barbara Cook, and distributing to the Defendant, Donald Cook, as the named beneficiary the funds totaling \$40,000.00 that were deposited by Central States, Southeast and Southwest Areas Health and Welfare Fund with the Court.

S. JEROME LEVY & ASSOCIATES, P.C.

By: _____ s/ S. Jerome Levy
- S. Jerome Levy

S. JEROME LEVY & ASSOCIATES, P.C.
One East Wacker Drive, Suite 2500
Chicago, Illinois 60601
(312) 832-1616

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

CENTRAL STATES, SOUTHEAST AND)
SOUTHWEST AREAS HEALTH AND)
WELFARE FUND, an Employee Welfare)
Benefit Plan, by Howard McDougall, a)
Trustee thereof,)
Plaintiff,)
-vs-) Case No. 08 cv 4120
BARBARA COOK and DONALD COOK,) Honorable Judge Norgle
Defendants.) Magistrate Judge Denlow

AFFIDAVIT

S. Jerome Levy, having been duly sworn on oath, states:

1. I am the attorney for the Defendant, Donald Cook, am above the age of eighteen, am competent to testify, and have personal knowledge of the facts stated herein.
2. I have reviewed the docket and court documents for this case. The docket confirms that the Plaintiff had summons issue to the Defendant, Barbara Cook, on July 22, 2008. (Docket No.5).
3. The co-Defendant, Barbara Cook, was served with the Summons and Complaint for Interpleader on July 23, 2008 by the Sheriff of Eau Claire County, Wisconsin. (Docket No. 6).
4. The Defendant, Barbara Cook, has failed to appear in this case within 20 days after service of the summons.
5. The Defendant, Donald Cook, by and through his attorneys, has filed a Motion respectfully requesting that judgment be entered holding the Defendant, Barbara Cook, in default and distributing the funds deposited by Central States, Southeast and Southwest Areas Health

and Welfare Fund to the Defendant, Donald Cook, as the named beneficiary.

AFFIANT FURTHER SAYETH NOT.

S. JEROME LEVY & ASSOCIATES, P.C.

By: _____ s/ S. Jerome Levy
S. Jerome Levy

-
S. JEROME LEVY & ASSOCIATES, P.C.
One East Wacker Drive, Suite 2500
Chicago, Illinois 60601
(312) 832-1616